



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,705	06/03/2005	Tim Neil	93422-47	5122
22463	7590	06/10/2009	EXAMINER	
SMART & BIGGAR			NGUYEN, DUSTIN	
438 UNIVERSITY AVENUE			ART UNIT	PAPER NUMBER
SUITE 1500, BOX 111				2454
TORONTO, ON M5G 2K8				
CANADA				
MAIL DATE		DELIVERY MODE		
06/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,705	Applicant(s) NEIL ET AL.
	Examiner DUSTIN NGUYEN	Art Unit 2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 April 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 03 June 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/0256/06)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

1. Claims 1 – 24 are presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/01/2009 has been entered.

Claim Objections

3. Claims 2-8, and 14-20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims are not further limit the subject matter of claims independent claims 1 and 13.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 6, 8-10, 13, 16, 18, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Himmel [US Patent No 6,167,441].

6. As per claim 1, Himmel discloses the invention as claimed including a method of determining operational status of a wireless communication device capable of executing server-side applications [i.e. determine the type of client device which is requesting services from a web server] [col 2, lines 20-22], said wireless communication device being a mobile device [Figure 3; col 3, lines 8-14; and col 6, lines 28-33], the method comprising:

 sending a message to said wireless communication device capable of executing server-side applications requesting operational status of the device [i.e. snoop or request for device information] [209, Figure 5, Figure 6; col 7, lines 18-38; and col 8, lines 19-41]; and

 receiving a response message from said wireless communication device indicative of the operational status of the device [i.e. user input sent back] [col 7, lines 6-10 and lines 28-38; and col 8, lines 19-col 9, lines 6]

 wherein said operational status of the wireless communication device comprises:

an indication of N most recent errors occurring at said wireless communication device, where N is an integer; an indication of N messages most frequently received at said device; an indication of a user interface screen currently displayed at said device; a network identifier identifying a wireless network over which said device is communicating; an indication of a make and model of said wireless communication device; an indication of power remaining at said wireless communication device; or an indication of available memory at said wireless communication device [i.e. display and memory capability, model, manufacturer] [Figure 6; Abstract; col 2, lines 30-35; and col 8, lines 31-41].

7. As per claim 4, Himmel discloses wherein said operational status of the wireless communication device comprises said indication of said user interface screen currently displayed at said device [i.e. display capability] [Figure 6; Abstract; and col 8, lines 52-col 9, lines 6].

8. As per claim 6, Himmel discloses wherein said operational status of the wireless communication device comprises said indication of said make and model of said wireless communication device [Figure 6; and col 8, lines 31-41].

9. As per claim 8, Himmel discloses wherein said operational status of the wireless communication device comprises said indication of available memory at said wireless communication device [Abstract; and col 2, lines 30-35].

10. As per claim 9, it is rejected for similar reasons as stated above in claim 1.

11. As per claim 10, Himmel discloses wherein said response message is an eXtensible Markup Language (XML) message [col 1, lines 56-64].
12. As per claim 13, it is rejected for similar reasons as stated above in claim 1.
13. As per claims 16 and 18, they are rejected for similar reasons as stated above in claims 4 and 6.
14. As per claim 20, it is rejected for similar reasons as stated above in claim 8.
15. As per claim 21, it is rejected for similar reasons as stated above in claim 1.
16. As per claim 22, it is rejected for similar reasons as stated above in claim 10.
17. Claims 1, 5, 9, 13, 17 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lupien, Francis [CA 2 274 866 A1].
18. As per claim 1, Lupien discloses the invention as claimed including a method of determining operational status of a wireless communication device capable of executing server-side applications, said wireless communication device being a mobile device [i.e. informed of

each other's ranges of supported capabilities in order to provide support for new, non-traditional services] [page 7, lines 12-28], the method comprising:

 sending a message to said wireless communication device capable of executing server-side applications requesting operational status of the device [i.e. transmit a message from the network to the mobile terminal requesting the mobile terminal to transmit information regarding the operating capabilities of the mobile terminal] [Abstract; and page 8, lines 18-22]; and

 receiving a response message from said wireless communication device indicative of the operational status of the device [i.e. transmit the capability report from the mobile terminal to the network] [Abstract; Table 1; and page 8, lines 23-27],

 wherein said operational status of the wireless communication device comprises:

 an indication of N most recent errors occurring at said wireless communication device, where N is an integer; an indication of N messages most frequently received at said device; an indication of a user interface screen currently displayed at said device; a network identifier identifying a wireless network over which said device is communicating; an indication of a make and model of said wireless communication device; an indication of power remaining at said wireless communication device; or an indication of available memory at said wireless communication device [i.e. G3-Fax, SMS support, model, manufacturer] [Table 1; page 9].

19. As per claim 5, Lupien discloses wherein said operational status of the wireless communication device comprises said network identifier identifying said wireless network over which said device is communicating [i.e. G3-Fax, SMS support, model, manufacturer] [Table 1; page 9].

20. As per claim 9, it is rejected for similar reasons as stated above in claim 1.

21. As per claim 13, it is rejected for similar reasons as stated above in claim 1.

22. As per claim 17, it is rejected for similar reasons as stated above in claim 5.

23. As per claim 21, it is rejected for similar reasons as stated above in claim 1.

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 2, 3, 7, 14, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel [US Patent No 6,167,441], in view of Osborne [US Patent No 6,088,588].

26. As per claims 2 and 3, Himmel does not specifically disclose wherein said operational status of the wireless communication device comprises said indication of N most recent errors occurring at said wireless communication and indication of N messages most frequently received

at said device. Osborne discloses wherein said operational status of the wireless communication device comprises said indication of N most recent errors occurring at said wireless communication and indication of N messages most frequently received at said device [i.e. log of recent error and event] [col 10, lines 51-62]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Himmel and Osborne since the teaching of Osborne on event logging would enable to provide the wireless network with information about network performance and OAM information to the network [Osborne, col 1, lines 66-col 2, lines 3].

27. As per claim 7, Osborne discloses wherein said operational status of the wireless communication device comprises said indication of power remaining at said wireless communication device [i.e. power and battery status can be transmitted] [col 8, lines 51-54].

28. As per claims 14 and 15, they are rejected for similar reasons as stated above in claims 2 and 3.

29. As per claim 19, it is rejected for similar reasons as stated above in claim 7.

30. Claims 11, 12, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel [US Patent No 6,167,441], in view of Tim Bray, Jean Paoli, C. M. Sperberg-McQueen,

Eve Maler, Rancois Yergeau, "Extensible Markup Language (XML) 1.0 (Third Edition)", W3C Recommendation 04 February 2004 [hereinafter as Bray et al.].

31. As per claims 11 and 12, Himmel does not specifically disclose wherein said composing comprises verifying that a textual operational status description forming part of said response message omits illegal XML characters, and wherein said verifying comprises passing said textual operational status description through an XML formatter for removal of any illegal XML characters. Bray et al. discloses wherein said composing comprises verifying that a textual operational status description forming part of said response message omits illegal XML characters, and wherein said verifying comprises passing said textual operational status description through an XML formatter for removal of any illegal XML characters [Section 2.3]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Himmel and Bray et al. since the teaching of XML would enable to support a wide variety of applications, easy to write programs, etc... [Bray et al., section 1.1].

32. As per claims 23 and 24, they are rejected for similar reasons as stated above in claims 11 and 12.

33. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

34. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DUSTIN NGUYEN/
Primary Examiner, Art Unit 2454